

1 MR. ANGEL: Thank you very much. My name is Albert
2 Angel, I'm Vice Chairman and co-founder of the Interactive Gaming
3 Council. I'm employed by a company called ICN Limited, in Del
4 Ray Beach, Florida. And ICN is a telecommunications service
5 bureau...

6 I'm also a board member of the internet alliance, a
7 trade organization that represents a number of main stream online
8 and internet companies. And really my involvement with
9 interactive gaming issues stems from my participation at the
10 board of the Internet Alliance...

11 Now, the interactive gaming council is a trade group,
12 it is comprised of companies that are interested in interactive
13 technologies, and gaming in particular. I really appreciate the
14 opportunity to address this group...

15 Others from our group have addressed you before. I
16 think you may call Sue Schneider of our group, who is a chair,
17 who was with you in Chicago. I personally have attended your
18 Boston meeting, and your Chicago meeting, and tried to stay
19 abreast of the deliberations of the Commission. .

20 I'm here because I want to make a contribution to the
21 ongoing dialogue. And if you had a moment to review our bullet
22 point recommendations and findings, you will find that we are
23 making a rather bold first time presentation with regard to a
24 framework for regulation of interactive gaming. .

25 Our overall position is that regulation is far
26 preferable to prohibition as a model for controlling interactive
27 gaming, particularly on the internet, and that it is better
28 designed to reach the social and economic concerns that you are
29 charged with analyzing and addressing..

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1 I attended the internet subcommittee meeting last
2 night, and I understand the presentation by that group today will
3 be in favor of prohibition...

4 And what I would like to offer up is a counterproposal.
5 Hopefully you will take the opportunity to integrate both points
6 of view in your final recommendations to Congress, so that
7 whichever way policy is ultimately made here, there is a good
8 road map emanating from your group in particular. .

9 With Madam Chair's permission, I would like to start
10 with a parable, which I think is really best designed to apply
11 some common sense to what is a very difficult area...

12 CHAIR JAMES: You are at Regent University, we love
13 parables

14 MR. ANGEL: Good, good. The parable is of a
15 hypothetical plot of land, which is very, very fertile. Wondrous
16 things can happen in this plot of land, virtually anything that
17 is planted there grows marvelously...

18 And for a period of time this plot of land is
19 surrounded by a half dozen towns, and each of the towns have
20 different approaches to the way they live their lives, and the
21 way they conduct themselves, but they all for a time make use of
22 this common centralized body of land..

23 It is very lush, it has rivers that run through it,
24 navigation is very easy, in fact there is a plentiful supply of
25 water coming from the north, and it is well irrigated..

26 Well, it turns out that the towns cannot really get
27 together with managing/cultivation of this particular plot of
28 land. And the land, ultimately through the efforts of some of
29 the towns, is fenced off. It is fenced off with some big iron

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1 fencing, and notwithstanding the efforts of the townspeople, and
2 their enforcement authority to keep people out of this lush,
3 wondrous garden, people sneak under the fence, get in there, and
4 they step up enforcement. .

5 For a time that works, but as fate would have it, weeds
6 begin to infest the garden, these weeds and their roots grow very
7 deep, and they get spindly and very inhospitable to human life..

8 The town to the north of this land takes a different
9 approach. They decide to annex this body of land, and they begin
10 to grow some cash crops that are essentially used in the
11 production of illegal drugs, and it becomes a plague,
12 essentially, on all the people that surround this lush wondrous
13 garden..

14 And they use the funds to essentially construct dams,
15 and systems that blockade the water that flows from the north
16 over the land. And, inevitably, what happens is this town to the
17 north ends up controlling, in bad ways, the outcome of this land.
18 .

19 The parable essentially is designed to give you an
20 analogy that I would hope you would refer back to in terms of the
21 construct of determining whether regulation or prohibition is a
22 better model for regulating the internet. .

23 Because the internet itself, obviously, is a miraculous
24 resource and medium for communicating quickly among various
25 nations. It offers benefits, and the strengths also offer the
26 greatest risks, primarily to those vulnerable in our society,
27 like minors, and compulsive gamblers. .

28 Now, the weeds are the unscrupulous operators. No
29 matter how high the fence is made, and how well it is fortified,

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1 weeds grow in fertile soil through the inaction of someone
2 cultivating the garden..

3 Regulation, on the other hand, is the approach that we
4 would recommend, and to draw out the analogy, if the town elders
5 in each of the towns got together and decided what forms of plant
6 life were to be grown, there would be no doubt that lush and
7 wondrous garden would be complete with green pastures, botanical
8 wonders, opportunities for navigation, and through a common
9 scheme, the weeds would not grow, and the land could be
10 cultivated to draw benefits for the people, in terms of their
11 enjoyment, as well as revenues for other social purposes..

12 This is the essential difference between prohibition
13 and regulation. Prohibition essentially announces a blockade.
14 There is no systematic manner of cultivating and developing a
15 market. Instead there is a harsh enforcement that ultimately
16 fails because, as in gaming, as in the garden, people like to
17 plant, people like to gamble.

18 And with regulation you have a systematic revisitation
19 so that there can be a segmentation of the issues. The analogy,
20 once again, would be that the plot on the internet might be
21 subdivided, that states and nations would take responsibility for
22 enforcing their segments, and through comity among nations
23 develop means whereby they could understand and appreciate the
24 best ways to cultivate this plot of land, and develop cooperative
25 procedures to enforce it.

26 That is the analogy, that is the parable. Let me move
27 now to precisely what it is that we would propose by way of a
28 framework for regulation. By the way, the comments that I am

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1 making are not unlike comments that are being made in all facets
2 of the internet that concern commerce.

3 We have the same issues in the security area, we have
4 issues in terms of insurance regulation, and it is without doubt,
5 most appropriate that we address regulation of the internet with
6 respect to gaming products, and draw out a key distinction.

7 We are not advocating that the internet itself be
8 regulated. We are advocating that gaming products offered over
9 the internet be regulated. That is an important distinction,
10 that is one of the findings that I think is incumbent upon you to
11 make.

12 Proponents of regulation are not persuaded that the
13 internet can be regulated, nor would they want to burden existing
14 internet service providers with enforcement obligations, but
15 instead gaming products should be regulated, as they are in the
16 real world.

17 If you turn to the bullet point recommendations, let me
18 highlight a few which I think are really the framework that we
19 would like to propose.

20 First we believe that all gaming companies that wish to
21 offer their services over the internet be required to proceed
22 under licensure. In fact, the Gaming Council, itself, requires
23 that each of its members, in order to be a member, must be
24 licensed by some jurisdiction. So the licensing jurisdiction
25 would typically exercise its authority over an entity that was
26 within its borders, and occupied its computer, equipment, and
27 servers. The obligations for licensure would carry, in a very
28 traditional sense, to the basic exercise of regulation.

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1 It would be that there was ways to check the integrity
2 of the games, to make sure that the computer algorithms are
3 checked, maintained, and offering a fair deal to consumers.

4 Secondly that the people that are involved with the
5 gaming enterprise are qualified, and that they have had
6 background checks, and do not present a risk to society for
7 taking what could be a good economic resource, and put it to a
8 bad end.

9 Third, there would be methods to control access by
10 minors, and to control and limit compulsive gambling on the
11 internet.

12 Fourth, that there would be a systematic way for taxing
13 revenues that are earned on the internet, and developing a
14 reciprocal tax sharing arrangement amongst states and nations.

15 That licensing is really the key. The licensing can
16 occur at any recognizable jurisdictional level, whether it is a
17 state, a nation, a group of nations, the notion is that it starts
18 with licensure.

19 Since this is a United States organization, the
20 Commission is really aimed at developing proposals for the United
21 States, we have a very clear requirement that we are articulating
22 in our regulatory framework, that any company that proposes to
23 offer internet services of a gaming nature to U.S. citizens, be
24 present in the United States.

25 Through one of two means. The first either physical
26 presence, where my previous remarks would indicate the level of
27 licensure, and the level of control, or alternatively, through
28 deemed presence, where you essentially have a registration.

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1 This latter approach would involve an offshore operator
2 that is licensed by a recognized jurisdiction, posting
3 potentially a bond in the United States, and be reachable from
4 the standpoint of enforcement efforts, in the United States, and
5 responsible to any injuries that are caused in the United States.

6 This creates both a jurisdictional framework, and an
7 enforcement framework, and works to build a better cohesion among
8 companies, wherever they are licensed, but with key reference to
9 where they operate.

10 The enforcement mechanism, and this is one of the third
11 points of our regulatory model, is that enforcement effort should
12 really take place at the state level. The states have a parental
13 role in protecting their citizens. They would, in effect, make
14 complaint to a licensing jurisdiction.

15 That entity, by virtue of its authority over the
16 licensed entity would exercise its jurisdiction. In cases of
17 offshore operators, or nations outside of the United States, we
18 would propose a federal role.

19 Now, whether this is a separate agency created by
20 Congress, or an existing agency that has a new charge, this group
21 would essentially devise minimum standards with regard to
22 consumer protection and financial transactions, and at the same
23 time, it would also be the principal apparatus whereby foreign
24 enforcement is undertaken.

25 One key point, and it is a principal underlying our
26 regulatory framework, is that there should be parity between the
27 real world and cyberspace. The comment is almost becoming
28 cliche, but it really is based on principles that have very, very
29 strong foundation.

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1 The notion that something that is permissible in the
2 real world does not become illegal once it is offered through a
3 different medium, is I think unassailable. The Department of
4 Justice made the same recommendation, and urged the legislators
5 in Congress, in crafting laws, not to make arbitrary distinctions
6 by virtue of the medium that is being used, but instead to focus
7 on the conduct and to really try their best to keep a parity
8 between cyberspace and the real world.

9 One of the key questions that we will no doubt get into
10 in terms of question and answer is the question of respect for
11 jurisdictional boundaries. In the United States we have, you
12 know, two states, Utah and Nevada, that are adjoining states,
13 they take different approaches with regard to gaming.

14 Because the internet has no boundaries, one has to ask
15 the question, you know, how do you propose to deal with
16 jurisdictional sovereignty and the right of states to protect its
17 citizens. It is a difficult question, and there is a wide degree
18 of opinion, even within our own group.

19 But I can highlight for you that at the interactive
20 gaming council highest level, and embodied within our code of
21 conduct, is the belief that if a jurisdiction speaks in uncertain
22 terms, no uncertain terms, about its policies with regard to
23 internet gambling by its citizens, that responsible gaming
24 operators should follow those pronouncements.

25 So that, for example, if Utah has a complete
26 prohibition, and the prohibition is current, focuses on commerce
27 that occurs in the internet, then internet gaming should not
28 accept wagers from states that have such prohibitions.

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1 Closer questions are presented where we are talking
2 about the degree of the wager, or the type of wager, and I will
3 leave that more for the question and answer.

4 One other key principle is that we believe that there
5 must be interaction among the international community of
6 regulators in order to fashion a minimum set of guidelines and
7 standards.

8 I had the opportunity to address the international
9 association of gaming regulators, and as I addressed that group
10 it came home what a great diversity there is in terms of gaming
11 products, an different nation's willingness to accept gaming
12 products.

13 In the internet we have a flat terrain with free and
14 easy navigation. I think the regulators should be charged with
15 getting together, like my analogy, the town elders getting
16 together and comparing notes, to devise something that works in
17 the context of the internet, taking due account of jurisdictional
18 boundaries, and different state's approach to how citizens should
19 or should not be permitted to entertain themselves on the
20 internet.

21 The final point of our recommendation is that in
22 whatever is recommended, due consideration should be given to the
23 areas where gaming has flourished without problem, in the current
24 context under the existing laws.

25 The two examples that are most often cited is that of
26 account wagering in the pari-mutuel context, where virtually for
27 25 years now, we have had instances where account wagers, often
28 between states on an interstate basis, proceed with no harm to

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1 consumers, in a way that is not socially detrimental, but
2 personally beneficial.

3 The other example that is given is of Indian use of
4 technology. The good example that I can offer up is satellite
5 bingo that joins reservations in disparate places to create a
6 larger bingo pool to draw people to a local gaming enterprise.
7 But the use of the interstate instrumentalities in the satellites
8 are, essentially, an extension of the regulation that already
9 exists.

10 If the approach here is to articulate a prohibition,
11 surely those areas that have caused no problem should be allowed
12 to continue as you develop new areas.

13 The final point that I would like to make is with
14 regard to the infirmities of prohibition itself. It is the
15 Gaming Council's belief, and in fact the vast majority of expert
16 witness that have testified before you, it has been their unified
17 opinion that prohibitions do not work, and regulation is the
18 preferred model for achieving your goals.

19 Now, we could agree precisely on the same objectives,
20 protecting minors, limiting compulsive gambling, perhaps strictly
21 limiting the expansion of gambling. Prohibition will not be the
22 favored approach to achieve those results, regulation will.

23 In some nations the regulatory model is, in fact, a
24 prohibition. But like the garden analogy, unless you continually
25 tend the garden, and you have people conscientiously looking
26 after the ways in which gambling is expanding, you are not going
27 to have an effective prohibition.

28 I will offer up four or five very key points why
29 prohibitions don't work. The first is the historical point that

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1 is made time and again, with regard to the embargo on alcohol in
2 the United States in the earlier part of the century.

3 It did not reduce consumption, it only changed the
4 channel of distribution into organized crime. If you really want
5 to control and limit gambling, regulation is the means, not
6 prohibition.

7 Plus marketplace dynamics are showing that it is
8 inevitable that gambling will occur on the internet. Four or
9 five key points there.

10 First of all, the internet itself is becoming a primary
11 and mainstream vehicle for commerce and communication. Think
12 about, for example, the securities brokers, Schwab and Fidelity,
13 that had pretty much implemented a retail brokerage some years
14 ago and then moved into the on-line environment a short two years
15 ago.

16 Today if you actually look at the number of trades that
17 are constituted in Schwab and Fidelity, over 50 or 60 percent of
18 those trades are conducted on-line.

19 I think many, many other things in the internet are
20 drawing to the same conclusion. I believe an expert that
21 addressed you on Monday's session pointed out that within a few
22 scant years nearly 30 percent of leisure income will be spent
23 over the internet.

24 When I think of my children, and their active use of
25 the internet, there is no doubt in my mind that they will find
26 their entertainment on the internet, as they do today. And when
27 they become adults, they will expect to find entertainment such
28 as gambling on the internet.

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1 So in anticipation of that turned you must respond to
2 it with the mechanisms that address it. Thirdly, with regard to
3 the market dynamics, you have a situation where you have numerous
4 nations that have already authorized gaming.

5 I don't know of any nation that has sought to prohibit
6 interactive gaming, to this point, but about 25 jurisdictions
7 have already approved some form of interactive gaming.

8 Some, Australia for example, are first world nations.
9 You may recall Brian Farrel's testimony where he stated, quite
10 emphatically, with or without a U.S. prohibition, they intended
11 on accepting bettors from the U.S.

12 If that is the case, you know, we are going to have
13 interactive gaming as a virtue of these trends.

14 One of the key points here is also of state's rights.
15 You know, what maybe articulated by the Internet Subcommittee is
16 a recommendation for a prohibition. But is that a federal
17 prohibition? What right does the federal government have to
18 curtail the interests of the constituent states? Under the 10th
19 Amendment, those are rights that are not specifically enumerated
20 for the federal government are reserved to the states, and the
21 states would be operating here in an area where they clearly
22 historically have had the authority to authorize gaming.

23 Two recent developments are key to this point. Bally's
24 is a company that many of you are familiar with, that is
25 regulated, it has received intra-state authority, on a
26 preliminary basis, for an instate interactive wagering system.

27 Now, if that is to be the law in Nevada, who is the
28 federal government to say that people in Nevada cannot pursue

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1 their interests in that fashion, when you do have a regulatory
2 enterprise.

3 In addition I would highlight that the bills that are
4 before Congress often are interpreted as taking regulatory
5 approach. A bit of history is very important Senator Kyl's
6 bill, started with the National Association of Attorney's
7 General. It is that initial -

8
9 CHAIR JAMES: Mr. Angel, I'm going to ask if you could
10 summarize those remarks? I think we have heard a lot of the
11 testimony that has sort of given us the history. What we are
12 really interested in hearing from you are your recommendations.

13 We have heard some of those, we would like to hear some
14 more, and then we are going to move on to Saum, but thank you
15 very much.

16 MR. ANGEL: My pleasure. I would be glad to just
17 conclude that thought. I would just highlight that the National
18 Associaton of Attorney's General did start out with a regulatory
19 model. It was through interaction by the Senate Judiciary
20 Committee that the Kyl Bill turned into a prohibition measure.

21 But on the House side McCollum and Goodlat have favored
22 a regulatory model that gives due reference to state's rights.

23 So rather than opt for the prohibition model, I would
24 encourage you to take regulation as your first step.

25 Thank you.

26 CHAIR JAMES: Thank you.

27 Mr. Saum?

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